

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC SAFETY**

**Call to Order:** By **CHAIRMAN STANLEY FISHER**, on January 22, 2001  
at 8:00 A.M., in Room 317-A Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Stanley Fisher, Chairman (R)  
Rep. Tim Callahan (D)  
Sen. Chris Christiaens (D)  
Rep. Jeff Pattison (R)  
Sen. Debbie Shea (D)  
Sen. Tom Zook (R)

**Members Excused:** Sen. Arnie Mohl, Vice Chairman (R)

**Members Absent:** None.

**Staff Present:** Mary LaFond, OBPP  
Lorene Thorson, Legislative Branch  
Sandra Whitaker, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: Department of Justice Agency  
Legal Services, MT. Highway  
Patrol, Forensics Science Lab  
1/19/2001  
Executive Action: None

***{Tape : 1; Side : A; Approx. Time Counter : 0}***

#### **HEARING ON DEPARTMENT OF JUSTICE**

##### **AGENCY LEGAL SERVICES**

**Mr. Larry Fasbender, Deputy Director, Department of Justice**, gave  
a brief overview of Agency Legal Services. He stated is a bureau

within Legal Services to serve the agency. The request they have before the committee is to adjust the hourly charge for attorney's services from \$62/hour to \$70/hour and paralegal services from \$35/hour to \$38/hour in order not to operate in a deficit. This amount historically needs to be adjusted about every three to four years to keep up with costs. The unit provides cost-effective legal assistance to state agencies on a contractual basis as needed in legal matters that cannot be handled by their existing staff. **Mr. Fasbender** stated the increase to \$70/hour is sufficient since the agency does not need to show a profit.

**CHAIRMAN FISHER** asked about DP 1005 Major Litigation Base Adjustments. **Mr. Fasbender** replied the State has been involved in several lawsuits. In the recent past, they did not expend the amount of funds requested and experienced a decrease in the amount allowed. Now the lawsuits are requiring a great deal more time and money and he expects the second year of the biennium to amount to \$500,000. The cost of the Tobacco Settlement comes out of this fund. Governor Martz's budget has decreased that amount to \$400,000.

**REP. PATTISON** asked about the Tobacco Settlement. **Mr. Fasbender** distributed a fact sheet for the committee. He stated they are no longer requesting \$35,000 for audits of tobacco manufacturers who did not participate in the national tobacco settlement as seen in the Racicot Budget. It has been removed from the Martz Budget.

**EXHIBIT(jch17a01)**

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#### **MONTANA HIGHWAY PATROL DIVISION**

**Colonel Bert J. Obert, Chief Administrator, Montana Highway Patrol**, gave an overview of the division. He has been with the Montana Highway Patrol (MHP) for 22 years and served in 7 capacities. He distributed information for the committee.

**EXHIBIT(jch17a02)**, **EXHIBIT(jch17a03)**, and **EXHIBIT(jch17a04)**

The Highway Patrol was formed in 1935 to make the roadways safer for the motoring public. **Colonel Obert** stated in 1972, the uniformed officers was at an all time high of 220. With the removal of uniformed officers from the driver's exam section, there are 204 officers remaining today. He went over the organizational structure which exists of two components--the staff

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and the field. In the field, there are 7 districts commanded by a Captain with 3 to 5 detachments in each one. There are a total of 24 detachments across the state. Of the 204 uniformed officers, 198 are assigned to the field.

There are three areas in the mission of the Highway Patrol. They are Education, Engineering and Enforcement. **Colonel Obert** stated the Education unit spend a great deal of time in the public schools in Montana to emphasize highway safety. He stated the mission of the Highway Patrol.

**Colonel Obert** continued with the accomplishments of the MHP since the 1999 legislative session. They now have a color photo lab; computerized crash reports (Montana Accident Reporting System-MARS); are now connected with e-mail for better and faster communications; and have an abbreviated time-saving crash report form. The MHP helps with special events such as the moving of the Bison in the West Yellowstone area and the Hells Angels 2000 Rally in Missoula. The pay plan was improved to promote retention of officers. The MHP won the Chief's Challenge Award, a national award in law enforcement and traffic safety. Two new districts were formed in Kalispell and Bozeman and in-car video cameras have been installed. Cross Deputization and mutual aid agreements are being implemented with the Indian Reservations.

**{Tape : 1; Side : A; Approx. Time Counter : 345}**

**Colonel Obert** then addressed the budget requests per exhibit 2, page 6. He stated there will always be overtime requests for the 24 hour/7 day-a-week operation with unpredictable incidents and emergencies beyond their control. Officers are on standby even when off duty and at home. Special overtime is incurred for certain events such as movie productions and highway zone construction; those costs are reimbursed by the requesting entities but require spending authority.

**Colonel Obert** stated the only general fund request in the MHP budget is for prisoner per diem costs which is the cost the Highway Patrol pays to board prisoners in county detention facilities. The day rate varies from \$32 to \$90. The request is for \$62,271 in FY 02 and \$95,288 in FY 03 from the general fund. Additional funds are expended for that in state special funds.

**Colonel Obert** continued the price of gasoline is a major concern for the MHP. They estimate the average cost will increase from \$1.32 per gallon to \$1.52.

**{Tape : 1; Side : B; Approx. Time Counter : 0}**

**Colonel Obert** continued with the budget requests. He stated the MHP is funded mainly by the gasoline tax. He covered subsistence costs, in-state lodging, rent increases, vehicle replacements, the Motor Vehicle Inspection Bureau expenses, recruit training school for new recruits, and communications operators.

The MHP is requesting 3.0 additional FTE to address the workload increase in the number of telephone calls and dispatch activities.

**EXHIBIT (jch17a05)**

Over 10 billion miles per year are driven by the public which means the number of calls to the MHP for service continue to grow. The current understaffed situation in the communications centers have led to a 90% turnover rate. **Colonel Obert** urged the committee's support of this request.

In conclusion, **Colonel Obert** stated the most important aspect of the organization is the people. MHP officers and individuals make sacrifices every day to serve the people of Montana. He gave several examples of dedicated service involving life threatening situations. He thanked the committee for their past support and continued support.

**SEN. SHEA** complimented the MHP in their service. She had witnessed their actions in responding to an accident.

**{Tape : 1; Side : B; Approx. Time Counter : 140}**

The committee discussed the per diem prison costs in the local detention areas. There was concern about the varying charges and the necessity of the MHP to be paying those costs. **Ms. Lorene Thorson, LFD Representative**, will research the number of days that possibly should have been reimbursed by counties to the MHP. **SEN. CHRISTIAENS** also asked about the medical expenses the MHP has to pay for prisoners and how that might be avoided. **Colonel Obert** stated some of the control is with the counties. **REP. CALLAHAN** stated the medical costs for prisoners for local government is a huge issue in the juvenile area also.

There was further discussion on the communications centers. There is no current statewide communication network among counties, cities, Department of Transportation, Department of Justice, and/or medical, etc. It would be the goal to have that one day but it would be at a significant cost. **Mr. Larry Fasbender**, stated he serves on a committee discussing that very issue of interconnected public safety communications allowing all

agencies to talk to each other. There will be a time in the near future when it will need to be addressed. It will be expensive but he feels federal funds will be available to help implement a system. The committee is in the process of writing standards.

The committee also discussed the funding sources for the MHP. **Colonel Obert** stated they receive \$17 million from the state gas tax. They share the gas tax fund mainly with the Department of Transportation. **SEN. CHRISTIAENS** asked for further clarification on vehicle replacement costs. **Colonel Obert** stated the lease price of an emergency high mileage vehicle runs about the same as the purchase price with no trade-in value at the end. He also went over the training program--where it takes place and the duration of each phase. There was discussion on the recruitment process; **Colonel Obert** commented it is hard to find qualified people who want to become law enforcement officers. Everyone who starts the training program does not finish and go on to become an officer.

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The largest concern of the committee as for the MHP is the price of gasoline. **SEN. CHRISTIAENS** asked if the \$1.52 was being used in other agencies as a figure to project needs. **Ms. LaFond** will check on that. Further discussion was held regarding bidding for gas, purchasing through the Department of Transportation, using a specific octane, and using ethanol. They discussed exemption from the state gas tax. **Mr. Jesse Munro, Administrative Officer, MHP**, stated the \$1.52 average was based on the figures from the invoices on the state report after taxes. In the past few years, the monthly average for gasoline has jumped from \$35,000 to over \$50,000/month without increased mileage. **SEN. CHRISTIAENS** asked for further research on that average price per gallon.

**CHAIRMAN FISHER** asked for further clarification on the training. **Colonel Obert** stated they do use the Montana Law Enforcement Academy for part of their training; however, it is longer and more specialized training involving such areas as crash investigation and DUI detection. **CHAIRMAN FISHER** added the gasoline is costing the state a significant increased amount due to the fact that the bid process is not able to be used now. The distribution methods in the state are not conducive to using the bid process.

The committee discussed the requested additional 3 FTE's, the price being paid for vehicles, and the costly per diem being paid for prisoners being held in local facilities. **Mr. LaFond** gave a history on the prisoner per diem process. It was previously

agreed by the Legislature (1997 session) that prisoner per diem be moved to the general fund as it was not an actual MHP activity.

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**FORENSICS SCIENCE DIVISION**

**Mr. Doug Booker, Administrator, Central Services Division,** stated the Forensics Science Division will be asked for a .5 FTE which the Attorney General supports. In the turnover of elected officials, the request, which was to be in the budget, was inadvertently omitted.

**Mr. Bill Unger, Administrator, Forensics Science Division, Missoula,** gave a brief overview of the division which is better known as the Crime Lab. He thanked the committee for touring the lab. He covered the organization chart.

**EXHIBIT (jch17a06)**

The Crime Lab has been in six different locations over the years and had to modify each area to fit their needs. He stated the new lab is built specifically to their needs and is extremely efficient. This is the only lab in the state, and it requires very specialized people. Their function is to analyze evidence from crime scenes, determine the findings, issue reports, testify in court as to the findings, train law enforcement officers, and keep specialized equipment in repair. Calling in outside repair technicians is very expensive and usually come from Salt Lake City. Maintenance contracts are also very expensive.

**Mr. Unger** proceeded with a slide presentation showing the committee the new facility in Missoula. He covered the Chemistry Lab and its functions; the Instrument Lab, its functions, its equipment and the costs of equipment; the Gunshot/Weapon Lab and its functions; and the Trace Evidence Room. He stated they are experiencing a 15% increase in drug cases due to the methamphetamine (meth) labs in the state. Research on the meth labs is very time consuming and usually involves a large number of items.

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The .5 FTE is being requested for the Trace Evidence lab. The lab is currently staffed by only one person and therefore does not allow peer review. Usually two scientists agree on the results before they are reported. It is critical for the results

to be correct. **Mr. Unger** distributed information regarding that request.

**EXHIBIT (jch17a07)**

**SEN. CHRISTIAENS** asked about the qualifications and how the division would recruit for the position. **Mr. Unger** stated they would advertise nationally as well as within the state. It is costly to train staff as it usually takes a year; however, if necessary, they do hire and train.

**Mr. Unger** talked about some of their equipment, the age of the equipment and the tremendous cost; however, the equipment is necessary for accurate results. In sexual offenders, body fluids are analyzed and kept in a data base for further comparison. He gave various examples throughout the presentation on evidence that has been processed in the lab and convicted offenders. **Mr. Unger** reported on the use of DNA. The odds of two people having the same DNA are 458,700,000 to 1. He stated DNA has been used in solving arson cases at times. It has also been known to vindicate suspects. The caseload for the Crime Lab this last year was 4229 and each case involves several processes. The evidence is returned to the agency when the results are completed.

**{Tape : 2; Side : B; Approx. Time Counter : 205}**

**Mr. Unger** stated the toxicology lab does breath and blood tests for DUI's and causes of deaths. He described many of the instruments used in obtaining those results and gave examples of solved cases. The lab staff train local law officers on breathalyser tests and calibration of equipment. **SEN. CHRISTIAENS** asked about the cost to change the calibration if the standard is changed to .08. **Mr. Unger** stated it would not create much cost. The new tests would be ordered with the .08. Dr. Dale is the Forensic Pathologist. It is his job to train new coroners after every election. **Mr. Unger** commented the doctor could leave the state anytime and double his salary; Montana is very lucky to have him.

Additional items covered at the lab were the new garage facility, which lets them investigate vehicles involved in crimes, and the latent print section.

**{Tape : 2; Side : B; Approx. Time Counter : 435}**

**Mr. Unger** went over the budget requests. He presented the equipment budget. In the previous biennium, because of the new

lab costs, the equipment budget was reduced a total of \$177,000. This biennium the equipment has also been reduced from his request of \$350,000 to \$200,000 FY 02 and \$196,000 FY 03. Governor Martz has further reduced it by \$82,807 each year.

DP 3202 is a request to seek and obtain national accreditation through the American Society of Crime Lab Directors which will cost \$12,000 for pre audit the initial cost with \$5,000 for renewal every five years. If accredited, there would be times when they could qualify for various federal funding as it becomes available. The current facility was designed and built with accreditation standards in mind.

**EXHIBIT(jch17a08)**

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**Mr. Unger** talked about the base adjustments and there followed discussion about the budget requests and the steps necessary to achieve the national accreditation. **SEN. ZOOK** asked about the flat roof for Montana weather. **Mr. Unger** stated the flat roof may have been needed to accommodate all the equipment on the roof for air control; however, he noted the building is not state owned.

**REP. CALLAHAN** asked about finding other funding sources to help with the meth lab problem. **Mr. Unger** stated he is very aggressive in looking for money and grants. The committee discussed the grants and availability of other funds. **Mr. Fasbender** stated the federal government allocated funds in the beginning of the meth lab explosion for cleanup; however, as the problem grew, the funds decreased. Hazardous waste cleanup can run from \$4,000 to \$12,000 per incident.

There was further discussion on the equipment requests. **Ms. LaFond** and **Ms. Thorson** clarified the committee would be acting on two requests—one in the Racicot Budget for additional funds and one in the Martz Budget to reduce it by a smaller amount for a net result. **CHAIRMAN FISHER** asked about alternatives to the travel time necessary for the scientists to testify. **Mr. Unger** stated they had to appear in person unless legislation is passed to permit video testimony. The lab is prepared for the telecommunications method if approved.

**{Tape : 3; Side : A; Approx. Time Counter : 325}**

The committee also discussed contract spending authority and what type of state funds match could be necessary. **Ms. LaFond**



explained it is idle authority if no federal dollars become available for the programs. However, the agencies need the approval of the legislature to spend the funds during the interim if money becomes available. A list of grants for the Department of Justice broken down by agency was distributed.

**EXHIBIT(jch17a09)**

**CHAIRMAN FISHER** reminded the committee the Martz Budget removed the funding for mailing renewal notices in the Motor Vehicle Division and the legalities of that needs to be researched. **Ms. LaFond** stated the statute states notices "may" be sent, not "shall" and therefore, it can be considered an option.

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**SEN. CHRISTIAENS** distributed a letter to the committee in response to their request for information on off-campus rents. He will ask the Department of Administration to speak with the committee to explain further at a later meeting.

**EXHIBIT(jch17a10)**

**CHAIRMAN FISHER** adjourned the meeting.

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**ADJOURNMENT**

Adjournment: 10:55 A.M.

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REP. STANLEY FISHER, Chairman

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SANDRA WHITAKER, Secretary

SF/SW

**EXHIBIT** (jch17aad)